

AMENDED IN SENATE MARCH 26, 2015

**SENATE BILL**

**No. 319**

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**Introduced by Senator Beall**  
**(Principal coauthor: Senator Mitchell)**  
*(Principal coauthor: Assembly Member Chiu)*  
**(Coauthor: Senator Monning)**  
*(Coauthor: Assembly Member Gatto)*

February 23, 2015

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An act to amend Section 56.103 of the Civil Code, and to amend Sections 5328.04 and 16501.3 of the Welfare and Institutions Code, relating to child welfare services.

LEGISLATIVE COUNSEL'S DIGEST

SB 319, as amended, Beall. Child welfare services: public health nursing.

Existing law requires the State Department of Social Services to establish a program of public health nursing in the child welfare services program, and requires counties to use the services of the foster care public health nurse under this program. Existing law requires the foster care public health nurse to perform specified duties, including participating in medical care planning and coordinating for a child in foster care. Existing law also requires a county to establish a community child health and disability prevention program to provide early and periodic assessments of the health status of children in the county.

This bill would require a county to provide the services of a foster care public health nurse to children in foster care by contracting with the community child health and disability prevention program established in that county. The bill would require a foster care public health nurse to monitor ~~and oversee~~ each child in foster care who is

administered one or more psychotropic medications, as specified. ~~The bill would give the foster care public health nurse access to the child's medical, dental, and mental health care information in order to fulfill these duties. By imposing these additional duties on foster care public health nurses, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

*Existing law restricts the disclosure of medical and mental health information by providers of health care and mental health care services, but authorizes disclosure of this information to county social workers, probation officers, or any other person who is legally authorized to have custody and care of a minor who is in temporary custody or subject to the jurisdiction of the juvenile court, for the purpose of coordinating medical treatment and health care, mental health, and developmental disability services for the minor.*

*This bill would authorize the disclosure of this health care and mental health care information to a foster care public health nurse, as specified.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 56.103 of the Civil Code is amended to  
2     read:

3     56.103. (a) A provider of health care may disclose medical  
4     information to a county social worker, a probation officer, *a foster*  
5     *care public health nurse acting pursuant to Section 16501.3 of the*  
6     *Welfare and Institutions Code*, or any other person who is legally  
7     authorized to have custody or care of a minor for the purpose of

1 coordinating health care services and medical treatment provided  
2 to the minor, *including, but not limited to, the sharing of*  
3 *information related to screenings, assessments, and laboratory*  
4 *tests necessary to monitor the administration of psychotropic*  
5 *medications.*

6 (b) For purposes of this section, health care services and medical  
7 treatment includes one or more providers of health care providing,  
8 coordinating, or managing health care and related services,  
9 including, but not limited to, a provider of health care coordinating  
10 health care with a third party, consultation between providers of  
11 health care and medical treatment relating to a minor, or a provider  
12 of health care referring a minor for health care services to another  
13 provider of health care.

14 (c) For purposes of this section, a county social worker, a  
15 probation officer, *foster care public health nurse*, or any other  
16 person who is legally authorized to have custody or care of a minor  
17 shall be considered a third party who may receive any of the  
18 following:

19 (1) Medical information described in Sections 56.05 and 56.10.

20 (2) Protected health information described in Section 160.103  
21 of Title 45 of the Code of Federal Regulations.

22 (d) Medical information disclosed to a county social worker,  
23 probation officer, *foster care public health nurse*, or any other  
24 person who is legally authorized to have custody or care of a minor  
25 shall not be further disclosed by the recipient unless the disclosure  
26 is for the purpose of coordinating health care services and medical  
27 treatment of the minor and the disclosure is authorized by law.  
28 Medical information disclosed pursuant to this section may not be  
29 admitted into evidence in any criminal or delinquency proceeding  
30 against the minor. Nothing in this subdivision shall prohibit  
31 identical evidence from being admissible in a criminal proceeding  
32 if that evidence is derived solely from lawful means other than  
33 this section and is permitted by law.

34 (e) (1) Notwithstanding Section 56.104, if a provider of health  
35 care determines that the disclosure of medical information  
36 concerning the diagnosis and treatment of a mental health condition  
37 of a minor is reasonably necessary for the purpose of assisting in  
38 coordinating the treatment and care of the minor, that information  
39 may be disclosed to a county social worker, probation officer,  
40 *foster care public health nurse*, or any other person who is legally

1 authorized to have custody or care of the minor. The information  
2 shall not be further disclosed by the recipient unless the disclosure  
3 is for the purpose of coordinating mental health services and  
4 treatment of the minor and the disclosure is authorized by law.

5 (2) As used in this subdivision, “medical information” does not  
6 include psychotherapy notes as defined in Section 164.501 of Title  
7 45 of the Code of Federal Regulations.

8 (f) The disclosure of information pursuant to this section is not  
9 intended to limit the disclosure of information when that disclosure  
10 is otherwise required by law.

11 (g) For purposes of this section, “minor” means a minor taken  
12 into temporary custody or as to who a petition has been filed with  
13 the court, or who has been adjudged to be a dependent child or  
14 ward of the juvenile court pursuant to Section 300 or 601 of the  
15 Welfare and Institutions Code.

16 (h) (1) Except as described in paragraph (1) of subdivision (e),  
17 nothing in this section shall be construed to limit or otherwise  
18 affect existing privacy protections provided for in state or federal  
19 law.

20 (2) Nothing in this section shall be construed to expand the  
21 authority of a social worker, probation officer, *foster care public*  
22 *health nurse*, or custodial caregiver beyond the authority provided  
23 under existing law to a parent or a patient representative regarding  
24 access to medical information.

25 *SEC. 2. Section 5328.04 of the Welfare and Institutions Code*  
26 *is amended to read:*

27 5328.04. (a) Notwithstanding Section 5328, information and  
28 records made confidential under that section may be disclosed to  
29 a county social worker, a probation officer, *a foster care public*  
30 *health nurse acting pursuant to Section 16501.3*, or any other  
31 person who is legally authorized to have custody or care of a minor,  
32 for the purpose of coordinating health care services and medical  
33 treatment, as defined in subdivision (b) of Section 56.103 of the  
34 Civil Code, mental health services, or services for developmental  
35 disabilities, for the minor.

36 (b) Information disclosed under subdivision (a) shall not be  
37 further disclosed by the recipient unless the disclosure is for the  
38 purpose of coordinating health care services and medical treatment,  
39 or mental health or developmental disability services, for the minor

1 and only to a person who would otherwise be able to obtain the  
2 information under subdivision (a) or any other provision of law.

3 (c) Information disclosed pursuant to this section shall not be  
4 admitted into evidence in any criminal or delinquency proceeding  
5 against the minor. Nothing in this subdivision shall prohibit  
6 identical evidence from being admissible in a criminal proceeding  
7 if that evidence is derived solely from lawful means other than  
8 this section and is permitted by law.

9 (d) Nothing in this section shall be construed to compel a  
10 physician and surgeon, licensed psychologist, social worker with  
11 a master's degree in social work, licensed marriage and family  
12 therapist, licensed professional clinical counselor, nurse, attorney,  
13 or other professional person to reveal information, including notes,  
14 that has been given to him or her in confidence by the minor or  
15 members of the minor's family.

16 (e) The disclosure of information pursuant to this section is not  
17 intended to limit disclosure of information when that disclosure  
18 is otherwise required by law.

19 (f) Nothing in this section shall be construed to expand the  
20 authority of a social worker, probation officer, *foster care public*  
21 *health nurse*, or custodial caregiver beyond the authority provided  
22 under existing law to a parent or a patient representative regarding  
23 access to confidential information.

24 (g) As used in this section, "minor" means a minor taken into  
25 temporary custody or for whom a petition has been filed with the  
26 court, or who has been adjudged a dependent child or ward of  
27 juvenile court pursuant to Section 300 or 601.

28 (h) Information and records that may be disclosed pursuant to  
29 this section do not include psychotherapy notes, as defined in  
30 Section 164.501 of Title 45 of the Code of Federal Regulations.

31 **SECTION 1.**

32 *SEC. 3.* Section 16501.3 of the Welfare and Institutions Code  
33 is amended to read:

34 16501.3. (a) The State Department of Social Services shall  
35 establish and maintain a program of public health nursing in the  
36 child welfare services program that meets the federal requirements  
37 for the provision of ~~healthcare~~ *health care* to minor and nonminor  
38 dependents in foster care consistent with Section 30026.5 of the  
39 Government Code. The purpose of the public health nursing  
40 program shall be to promote and ~~protect~~ *enhance* the physical,

1 mental, dental, and developmental well-being of children in the  
2 child welfare system.

3 (b) Under this program, counties shall provide the services of  
4 a foster care public health nurse to children in foster care by  
5 contracting with the community child health and disability  
6 prevention program established in that county pursuant to Section  
7 124040 of the Health and Safety Code. The foster care public  
8 health nurse and the child's social worker shall consult~~and~~,  
9 collaborate, *and share information in a timely manner* to ensure  
10 that the child's physical, mental, dental, and developmental needs  
11 are met. The foster care public health nurse shall serve as a liaison  
12 with health care professionals and other providers of health-related  
13 services. In order to fulfill these duties, the foster care public health  
14 nurse shall have access to the child's medical, dental, and mental  
15 health care information.

16 (c) The duties of a foster care public health nurse shall include,  
17 but need not be limited to, the following:

18 (1) Documenting that each child in foster care receives initial  
19 and followup health screenings that meet reasonable standards of  
20 medical practice.

21 (2) Collecting health information and other relevant data on  
22 each foster child as available, receiving all collected information  
23 to determine appropriate referral and services, and expediting  
24 referrals to providers in the community for early intervention  
25 services, specialty services, dental care, mental health services,  
26 and other health-related services necessary for the child.

27 (3) Participating in medical care planning and coordinating for  
28 the child. This may include, but is not limited to, assisting case  
29 workers in arranging for comprehensive health and mental health  
30 assessments, interpreting the results of health assessments or  
31 evaluations for the purpose of case planning and coordination,  
32 facilitating the acquisition of any necessary court authorizations  
33 for procedures or medications, advocating for the health care needs  
34 of the child and ensuring the creation of linkage among various  
35 providers of care.

36 (4) Providing followup contact to assess the child's progress in  
37 meeting treatment goals.

38 (5) At the request of and under the direction of a nonminor  
39 dependent, as described in subdivision (v) of Section 11400,  
40 assisting the nonminor dependent in accessing physical health and

1 mental health care, coordinating the delivery of health and mental  
2 health care services, advocating for the health and mental health  
3 care that meets the needs of the nonminor dependent, assisting the  
4 nonminor dependent to make ~~an informed decision to begin or~~  
5 ~~continue taking psychotropic medications,~~ *decisions about his or*  
6 *her health care by, at a minimum, providing educational materials,*  
7 and assisting the nonminor dependent to assume responsibility for  
8 his or her ongoing physical and mental health care management.

9 (6) ~~Monitoring and oversight of each child in foster care who~~  
10 ~~is administered one or more psychotropic medications. This~~  
11 ~~oversight monitoring shall include the review, but is not limited~~  
12 ~~to, all of the following:~~

13 (A) *The review of each request for psychotropic medication*  
14 *filed pursuant to Section 369.5 to ensure that* ~~lab tests,~~ *all required*  
15 *information is provided in the application to the court.*

16 (B) *Ensuring that laboratory tests, other screenings and*  
17 *measurements, evaluations, and assessments required to meet*  
18 *reasonable standards of medical practice have been completed.*  
19 ~~The foster care public health nurse shall also ensure that all of the~~  
20 ~~following occur:~~

21 ~~(A) The~~

22 (C) *Ensuring that the juvenile court has authorized the*  
23 *psychotropic medication to be administered to the child.*

24 ~~(B) Periodic~~

25 (D) *Ensuring that periodic followup visits with the prescribing*  
26 *physician, lab work, and other measurements are* *scheduled and*  
27 *completed.*

28 ~~(C) The~~

29 (E) *Ensuring that the child's health and education passport, as*  
30 *described in Section 16010, includes accurate documentation*  
31 *concerning the psychotropic medications authorized for and*  
32 *administered to the child.*

33 ~~(D) The medication's efficacy in addressing the illness or~~  
34 ~~symptoms for which it was prescribed are documented.~~

35 (F) *Assessing, monitoring, and documenting the response of*  
36 *the child to the administration of psychotropic medication through*  
37 *review and interpretation of the laboratory tests, reports by the*  
38 *child and caregiver, and other screenings.*

39 ~~(E) Any~~

1 (G) *Ensuring that any* adverse effects of the medication reported  
2 by the *child or* child's caregiver are promptly addressed, and, if  
3 necessary, brought to the attention of the court, *the child's social*  
4 *worker, or both.*

5 (d) The services provided by foster care public health nurses  
6 under this section shall be limited to those for which reimbursement  
7 may be claimed under Title XIX *of the federal Social Security Act*  
8 at an enhanced rate for services delivered by skilled professional  
9 medical personnel. Notwithstanding any other law, this section  
10 shall be implemented only if, and to the extent that, the department  
11 determines that federal financial participation, as provided under  
12 Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396  
13 et seq.), is available.

14 (e) (1) The State Department of Health Care Services shall seek  
15 any necessary federal approvals for child welfare agencies to  
16 appropriately claim enhanced federal Title XIX funds for services  
17 provided pursuant to this section.

18 (2) Commencing in the fiscal year immediately following the  
19 fiscal year in which the necessary federal approval pursuant to  
20 paragraph (1) is secured, county child welfare agencies shall  
21 provide health care oversight and coordination services pursuant  
22 to this section, and may accomplish this through agreements with  
23 local public health agencies.

24 (f) (1) Notwithstanding Section 10101, prior to the 2011–12  
25 fiscal year, there shall be no required county match of the  
26 nonfederal cost of this program.

27 (2) Commencing in the 2011–12 fiscal year, and each fiscal  
28 year thereafter, funding and expenditures for programs and  
29 activities under this section shall be in accordance with the  
30 requirements provided in Sections 30025 and 30026.5 of the  
31 Government Code.

32 ~~SEC. 2. If the Commission on State Mandates determines that~~  
33 ~~this act contains costs mandated by the state, reimbursement to~~  
34 ~~local agencies and school districts for those costs shall be made~~  
35 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
36 ~~4 of Title 2 of the Government Code.~~

37 *SEC. 4. To the extent that this act has an overall effect of*  
38 *increasing the costs already borne by a local agency for programs*  
39 *or levels of service mandated by the 2011 Realignment Legislation*  
40 *within the meaning of Section 36 of Article XIII of the California*



1 *Constitution, it shall apply to local agencies only to the extent that*  
2 *the state provides annual funding for the cost increase. Any new*  
3 *program or higher level of service provided by a local agency*  
4 *pursuant to this act above the level for which funding has been*  
5 *provided shall not require a subvention of funds by the state nor*  
6 *otherwise be subject to Section 6 of Article XIII B of the California*  
7 *Constitution.*

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